

**BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF IOWA**

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**IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST**

**JOSEPH L. MONAHAN, III, D.O., RESPONDENT**

**No. 03-04-375**

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**NOTICE OF HEARING**

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You are hereby notified that on July 15, 2004, the Iowa Board of Medical Examiners (Board) found probable cause to file a Statement of Charges against you. If any of the allegations against you are founded, the Board has authority to take disciplinary action against you under Iowa Code chapters 17A, 147, 148, and 272C (2003), and 653 IAC Chapter 12. A copy of the Statement of Charges is attached, and sets forth the particular statutes and rules which you are alleged to have violated, and further provides a short and plain statement of the matters asserted.

**IT IS HEREBY ORDERED** that a disciplinary contested case hearing be held upon said Statement of Charges on August 31, 2004. The hearing shall begin at 8:30 a.m., and shall be held at the Board office located at 400 SW 8<sup>th</sup> Street, Suite C, Des Moines, Iowa. The Board shall serve as presiding officer, and the Board may request an Administrative Law Judge make initial rulings on pre-hearing matters, and be present to assist and advise the Board at hearing.

Within 20 days of the date you are served with the Statement of Charges and Notice of Hearing, you are required by 653 IAC 12.18(2) to file an answer to the charges. In that answer, you should also state whether you will require an adjustment of the date and time of the hearing.

At hearing you may appear personally or be represented by counsel at your own expense. You will be allowed the opportunity to respond to the charges against you. The procedural rules governing the conduct of the hearing are found at 653 IAC chapter 12.

The office of the Attorney General is responsible for representation of the public interest (the State) in these proceedings. Copies of all pleadings filed with the Board should be provided to counsel for the State at the following address:

Theresa O'Connell Weeg, Esq.  
Assistant Attorney General  
Iowa Department of Justice  
Hoover State Office Building  
Des Moines, IA 50319  
Phone 515-281-6858

If you fail to appear at hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code section 17A.12(3) and 653 IAC 12.28.

The matter may be resolved by settlement agreement, the procedural rules governing the Board's settlement process are found at 653 IAC 12.25. If you are interested in pursuing settlement in this matter please contact Kent M. Nebel, J.D., Director of Legal Affairs, at 515-281-7088.

#### **IOWA BOARD OF MEDICAL EXAMINERS**



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Bruce L. Hughes, M.D., Chairperson  
Iowa Board of Medical Examiners  
400 SW 8<sup>th</sup> Street, Suite C  
Des Moines, Iowa 50309-4686

c: Theresa O'Connell Weeg, Esq., Assistant Attorney General  
Presiding Administrative Law Judge

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**STATEMENT OF CHARGES**

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**COMES NOW** the Iowa Board of Medical Examiners (the Board), on July, 15, 2004, and files this Statement of Charges against Joseph L. Monahan, III, D.O., (Respondent), a physician licensed pursuant to Chapter 147 of the 2003 Code of Iowa and alleges:

1. Respondent was issued license number 02307 to practice osteopathic medicine and surgery in Iowa on September 15, 1988.
2. Respondent's Iowa medical license is active and will next expire on April 1, 2005.
3. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 147, 148 and 272C.

**COUNT I**

4. Respondent is charged under Iowa Code section 148.6(2)(i) (2003) with violating a lawful order of the Board.

## **CIRCUMSTANCES**

5. On September 12, 1989, the Board filed formal disciplinary charges against Respondent's Iowa medical license alleging that he excessively used drugs and/or alcohol impairing his ability to practice medicine in a safe and skillful manner. Respondent allegedly inappropriately used sample drugs, including a Codeine product, while he was a resident physician.

6. On October 5, 1989, Respondent entered into an Informal Settlement with the Board which placed his Iowa medical license on probation for a period of five years subject to certain terms and conditions due to substance abuse.

7. On September 8, 1994, the Board issued an Order terminating the probation on Respondent's Iowa medical license upon successful completion of the established terms and conditions.

8. On April 3, 2003, the filed formal disciplinary charges against Respondent's Iowa medical license based on evidence that Respondent suffered from alcohol and drug abuse and dependence.

9. On July 1, 2003, the Board issued a disciplinary Order following a contested case hearing. The Board concluded that Respondent suffered from alcohol and drug abuse and dependence and placed his Iowa medical license on indefinite probation subject to certain terms and conditions due to substance abuse.

10. The Board recently reviewed information which indicates that Respondent has engaged in a pattern of non-compliance with the terms and conditions of his monitoring program established pursuant to Paragraph 1 of the July 1, 2003, Order.

11. The Board recently reviewed information which indicates that Respondent has engaged in a pattern of non-compliance with the terms and conditions established in the July 1, 2003, Order, including the following:

A. Paragraph 11 of the July 1, 2003, Order, states in relevant part: “The Respondent shall submit quarterly written reports under penalty of perjury to the Board, no later than 1/10, 4/10, 7/10, and 10/10 of each year of probation, verifying his compliance with all of the terms of probation.” The Board recently reviewed information which indicates that the Respondent has failed to provide the appropriate information regarding his prescription medication use on his quarterly reports in violation of Paragraph 11 of the July 1, 2003, Order.

B. Paragraph 5 of the July 1, 2003, Order, states in relevant part: “The Respondent shall continue to participate in a Board-approved substance abuse aftercare program. The Respondent shall attend individual substance abuse therapy and group substance abuse therapy at least once per week, each.” The Board recently reviewed information which indicates that Respondent has failed to attend individual substance abuse therapy at least once per week in violation of Paragraph 5 of the July 1, 2003, Order.

C. Paragraph 6 of the July 1, 2003, Order, states: "The Respondent shall attend at least one AA meeting each week throughout the period of probation. The Respondent shall provide the Board a written statement indicating that he obtained an AA sponsor and he shall meet with his AA sponsor regularly. The Respondent shall obtain documentation of attendance at AA and include copies of this documentation in his own quarterly reports." The Board recently reviewed information which indicates that the Respondent has failed to provide the Board with the appropriate signed documentation of his attendance at AA meetings in his quarterly reports in violation of Paragraph 6 of the July 1, 2003, Order.

On this the 15<sup>th</sup> day of July, 2004, the Iowa Board of Medical Examiners finds cause to file this Statement of Charges.



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Bruce L. Hughes, M.D., Chairperson  
Iowa Board of Medical Examiners  
400 SW 8<sup>th</sup> Street, Suite C  
Des Moines, Iowa 50309-4686